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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2014-OSERS-0068]

Proposed priority--Rehabilitation Training: Rehabilitation

Long-Term Training Program--Rehabilitation Specialty Areas

[CFDA Number: 84.129C, E, F, H, J, P, Q, R, and W.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Rehabilitation Training: Rehabilitation Long-Term Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years.

This priority is designed to ensure that the Department funds high-quality rehabilitation programs in the following nine rehabilitation specialty areas of national need: (1) Rehabilitation Administration (84.129C); (2) Rehabilitation Technology (84.129E); (3) Vocational Evaluation and Work Adjustment (84.129F); (4) Rehabilitation of Individuals Who Are Mentally Ill (84.129H); (5) Rehabilitation Psychology (84.129J); (6) Rehabilitation of Individuals Who are Blind

or Have Vision Impairments (84.129P); (7) Rehabilitation of Individuals Who are Deaf or Hard of Hearing (84.129Q); (8) Job Development and Job Placement Services (84.129R); and (9) Comprehensive System of Personnel Development (84.129W). These programs must meet rigorous standards in order to provide scholars with the training necessary to become qualified rehabilitation professionals who are capable of meeting the current challenges facing State vocational rehabilitation (VR) agencies and related agencies and who can assist individuals with disabilities in achieving high-quality employment outcomes.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically.

Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to the site?"

- Postal Mail, Commercial Delivery, or Hand Delivery:

If you mail or deliver your comments about these proposed regulations, address them to RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue, SW., room 5055, Potomac Center Plaza (PCP), Washington, DC 20202-2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby.

Telephone: (202) 245-7258 or by email:
roseann.ashby@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 5055, 550 12th Street, SW., PCP, Washington, DC, 20202-2800, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment

for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for--

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to the award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Program Authority: 29 U.S.C. 772(b).

Applicable Program Regulations: 34 CFR parts 385 and 386.

PROPOSED PRIORITY:

This notice contains one proposed priority.

Rehabilitation Specialty Areas.

Background:

The Rehabilitation Services Administration (RSA) recently redesigned its funding priority for the

Rehabilitation Long-Term Training program, Vocational Rehabilitation Counseling; the final priority was published in the Federal Register on November 5, 2013 (78 FR 66271). The goal of this priority was to support high-quality master's level programs that would produce qualified and effective vocational rehabilitation (VR) counselors to meet the identified needs of State VR agencies and to assist individuals with disabilities in achieving high-quality employment outcomes.

In redesigning that priority, the Department was particularly concerned with increasing the rigor of training programs for prospective VR counselors to ensure that they had the knowledge and skills necessary to provide effective services to consumers in State VR agencies. In particular, the revisions were designed to ensure that (1) program curricula are developed to prepare scholars to meet the needs of State VR agency consumers; (2) programs recruit high-quality scholars and support them through the program, including through the provision of career counseling to program graduates; (3) programs maintain strong relationships with State VR agencies to promote employment and internship opportunities for scholars; and

(4) programs are continuously evaluated using feedback from State VR agencies and consumers of VR services.

RSA has not yet made its first awards under the revised priority for Vocational Rehabilitation Counseling. However, we believe it has the potential to dramatically improve the caliber of programs and scholars we support and, by extension, the employment outcomes for State VR agency consumers.

Although scholars receiving support under the Vocational Rehabilitation Counseling priority are expected to develop the knowledge and skills to meet the needs of the majority of VR consumers, there will always be a need for counselors with specialized skills to meet the unique needs of individuals with specific disabilities, e.g., individuals who are blind or deaf or who have a serious mental illness. In fact, in response to a request for information (RFI) published in the Federal Register on November 8, 2012 (77 FR 66959), a number of commenters made exactly this case. Even in his Presidential Memorandum on Job-Driven Training for Workers, issued on January 30, 2014, the President noted that "job seekers must have access to education and training that meets their unique needs and the requirements for good jobs and careers."

In response to these insights, the Department plans to make new awards in several specialty areas under the Long-Term Training program in FY 2014. However, in order to ensure the same level of rigor in specialty areas as we will require from our Vocational Rehabilitation Counseling grantees, we propose a new priority for specialty areas under the Long-Term Training program.¹ Although the Department does not plan on making awards in all of these specialty areas in FY 2014, we are drafting this priority for all specialty areas to reduce the burden on the Department and commenters in future years should we opt to support projects under a different specialty area than those for which awards are made in FY 2014.

In FY 2014, the Department plans to make new awards in the following specialty areas only:

(1) Vocational Evaluation and Work Adjustment: Many who commented on the RFI and on the notice of proposed priority for Vocational Rehabilitation Counseling, published in the Federal Register on June 14, 2013 (78 FR 35808), strongly

¹ Specifically, the new priority is being proposed for the following specialty areas: (1) Rehabilitation Administration; (2) Rehabilitation Technology; (3) Vocational Evaluation and Work Adjustment; (4) Rehabilitation of Individuals Who Are Mentally Ill; (5) Rehabilitation Psychology; (6) Rehabilitation of Individuals Who are Blind or have Vision Impairments; (7) Rehabilitation of Individuals Who are Deaf or Hard of Hearing; (8) Job Development and Job Placement Services; and (9) Comprehensive System of Personnel Development.

urged RSA to continue support for vocational evaluation programs. They stressed the critical importance of VR professionals' understanding of the individual skills needed in today's labor market and how best to align those skills with the changing demands of the labor market so that consumers with disabilities can achieve high-quality employment outcomes.

Vocational evaluators are trained to use labor market reviews, analyze job and training programs, assess work site accommodations, and conduct vocational profiles and reports. Evaluators examine the details of specific work opportunities for an individual with a disability, including the physical, academic, social, and emotional demands of the work environment in order to maximize the potential for an individual's long-term career success.

Although VR counselors receiving a master's degree in VR counseling may possess some of these specialized skills, they do not receive the breadth and depth of training in these skill sets that an individual receiving a specialized degree or certificate in vocational evaluation does.

(2) Rehabilitation of Individuals Who Are Mentally Ill: Mental illness has a pronounced negative effect on employment. Both internal and external factors (e.g.,

stigma, discrimination, co-occurring conditions such as substance abuse, and medications used in treating mental health conditions) contribute to poor employment outcomes. Data from RSA's 2012 Case Service Report show that approximately 25 percent of the individuals whose case records were closed in that year had a primary disabling condition of mental illness (e.g., anxiety disorders, mood disorders, personality disorders, schizophrenia), with an additional 15 percent having a secondary co-occurring disabling condition of mental illness. Individuals with mental illness represent the largest disability group receiving public income support and they are the least likely to achieve successful employment outcomes after VR (Cook, 2006). For those individuals with mental illness who are employed, mental illness is associated with decreased productivity and job retention (Lerner, et al., 2012). State VR agency staff providing services to these consumers need specialized training in order to improve the likelihood that these consumers will achieve quality employment outcomes.

(3) Rehabilitation of Individuals Who are Blind or Have Vision Impairments: There is a great need for more highly trained rehabilitation professionals who understand

the specific needs of individuals who are blind or have vision impairments. Data from RSA's Case Service Report indicate that, from 2007 to 2012, the number of case records closed after receiving services with an employment outcome for individuals with visual disabilities decreased by 17 percent. This lack of success was particularly acute in General and Combined State VR agencies, which saw a 24 percent reduction in the number of records of individuals with visual disabilities closed with an employment outcome.

We believe that increasing the number of training programs supported by the Long-Term Training program that are focused on the unique needs of individuals who are blind or have vision impairments can help to reverse this trend by ensuring that personnel have the specialized knowledge and skills to provide high-quality services to these VR consumers. Specifically, rehabilitation professionals are needed who can provide individuals with training necessary for adjustment to blindness or vision loss, including training in reading braille, orientation and mobility, independent/daily living, and use of assistive technology for both blindness and low vision-related applications (e.g., screen-reading speech software or large-print magnification devices).

(4) Rehabilitation of Individuals Who are Deaf or Hard of Hearing: There is also a need for more professionals trained in the needs of individuals who are deaf or hard of hearing. According to the ACS (2012), approximately 2.1 percent (3.9 million) of American adults between the ages of 18-64 report hearing difficulty. Hearing loss can pose significant challenges to obtaining and retaining competitive employment, and individuals with these disabling conditions often need additional, specialized supports to be successful in the workforce.

Rehabilitation professionals working with this population should have the following competencies: (1) knowledge of the medical, psychological, and social impact of hearing loss; (2) knowledge of VR counseling and assessment strategies appropriate for this population; (3) knowledge of sign language, communication strategies, hearing aids, cochlear implants, hearing rehabilitation, and assistive technologies (e.g., assistive listening devices, speech-to-text software and devices, telephone technologies, etc.); and (4) knowledge of education, career, and employment opportunities.

References:

Cook, J. (2006). Employment Barriers for Persons with Psychiatric Disabilities: Update of a Report for the President's Commission. *Psychiatric Services*, 57(10), 1391-1405. Retrieved from <http://ps.psychiatryonline.org/data/Journals/PSS/3777/06ps1391.pdf>.

Lerner, D., Adler, D., Hermann, R. C., Chang, H., Ludman, E. J., Greenhill, A., Perch, K., McPeck, W. C., & Rogers, W. H. (2012). Impact of a Work-Focused Intervention on the Productivity and Symptoms of Employees with Depression. *Journal of Occupational and Environmental Medicine*, 54(2), 128.

Obama, B.H. Presidential Memorandum on Job-Driven Training for Workers. The White House, Office of the Press Secretary. 30 Jan. 2014. Web. 8 April 2014.

Rehabilitation Services Administration. (2012). Case Service Report. RSA 911.

United States Census Bureau. (2012). S1819 Disability Characteristics, 2008-2012 American Community Survey (ACS) 5-year Estimates. American Fact Finder. 2012. Web. Feb. 2014.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to fund programs leading to a master's degree or certificate in one of nine specialty areas: (1) Rehabilitation Administration; (2) Rehabilitation Technology; (3) Vocational Evaluation and Work Adjustment; (4) Rehabilitation of Individuals Who Are Mentally Ill; (5) Rehabilitation Psychology; (6) Specialized Personnel for Rehabilitation of Individuals Who Are Blind or Have Vision Impairments; (7) Rehabilitation of Individuals Who Are Deaf or Hard of Hearing; (8) Job Development and Job Placement Services; and (9) Comprehensive System of Personnel Development. The goal of this priority is to increase the skills of scholars in these rehabilitation specialty areas so that, upon successful completion of their master's degree or certificate programs, they are prepared to effectively meet the needs and demands of consumers with disabilities.

Under this priority, applicants must:

(a) Provide data on the current and projected employment needs and personnel shortages in the specialty area in State VR agencies and other related agencies as

defined in 34 CFR 386.4 in their local area, region, and State, and describe how the proposed program will address those employment needs and personnel shortages.

(b) Describe how the proposed program will provide rehabilitation professionals with the skills and knowledge that will help ensure that the individuals with disabilities whom they serve can meet current demands and emerging trends in the labor market, including how:

(1) The curriculum provides a breadth of knowledge, experience, and rigor that will adequately prepare scholars to meet the employment needs and goals of VR consumers and aligns with evidence-based and competency-based practices in the rehabilitation specialty area;

(2) The curriculum prepares scholars to meet all applicable certification standards;

(3) The curriculum addresses new or emerging consumer needs or trends at the national, State, and regional levels in the rehabilitation specialty area;

(4) The curriculum teaches scholars to address the needs of individuals with disabilities who are from diverse cultural backgrounds;

(5) The curriculum trains scholars to assess the assistive technology needs of consumers, identify the most

appropriate assistive technology services and devices for assisting consumers to obtain and retain employment, and train consumers to use such technology;

(6) The curriculum teaches scholars to work with employers effectively in today's economy, including by teaching strategies for developing relationships with employers in their State and local areas, identifying employer needs and skill demands, making initial employer contacts, presenting job-ready clients to potential employers, and conducting follow-up with employers; and

(7) The latest technology is incorporated into the methods of instruction (e.g., the use of distance education to reach scholars who live far from the university and the use of technology to acquire labor market information).

(c) Describe their methods to:

(1) Recruit highly capable prospective scholars who have the potential to successfully complete the academic program, all required practicum and internship experiences, and the required service obligation;

(2) Educate potential scholars about the terms and conditions of the service obligation under 34 CFR 386.4, 386.34, and 386.40 through 386.43 so that they will be fully informed before accepting a scholarship;

(3) Maintain a system that ensures that scholars sign a payback agreement and an exit form when they exit the program, regardless of whether they drop out, are removed, or successfully complete the program;

(4) Provide academic support and counseling to scholars throughout the course of the academic program to ensure successful completion;

(5) Ensure that all scholars complete an internship in a State VR agency or a related agency as a requirement for completion of a program leading to a master's degree. The internship must be in a State VR agency unless the VR agency does not directly perform work related to the scholar's course of study or an applicant can provide sufficient justification that it is not feasible for all students receiving scholarships to complete an internship in a State VR agency. In such cases, the applicant may require scholars to complete an internship in a related agency, as defined in 34 CFR 386.4. Circumstances that would constitute sufficient justification may include, but are not limited to, a lack of capacity at the State VR agency to provide adequate supervision of scholars during their internship experience and the physical distance between scholars and the nearest office of the State VR

agency (e.g., for scholars enrolled in distance-learning programs or at rural institutions). Applicants should include a written justification in the application or provide it to RSA for review and approval by the appropriate RSA Project Officer no later than 30 days prior to a scholar beginning an internship in a related agency. For applicants proposing a certificate program, the requirement for an internship in a State VR agency or a related agency is waived unless the certificate program has an internship requirement.

(6) Provide career counseling, including informing scholars of professional contacts and networks, job leads, and other necessary resources and information to support scholars in successfully obtaining and retaining qualifying employment;

(7) Maintain regular contact with scholars upon successful program completion to ensure that they have support during their search for qualifying employment as well as support during the initial months of their employment (e.g., by matching scholars with mentors in the field);

(8) Maintain regular communication with scholars after program exit to ensure that their contact information

is current and that documentation of employment is accurate and meets the regulatory requirements for qualifying employment; and

(9) Maintain accurate information on, while safeguarding the privacy of, current and former scholars from the time they are enrolled in the program until they successfully meet their service obligation.

(d) Describe a plan for developing and maintaining partnerships with State VR agencies and community-based rehabilitation service providers that includes:

(1) Coordination between the grantee and the State VR agencies and community-based rehabilitation service providers that will promote qualifying employment opportunities for scholars and formalized on-boarding and induction experiences for new hires;

(2) Formal opportunities for scholars to obtain work experiences through internships, practicum agreements, job shadowing, and mentoring opportunities; and

(3) When applicable, a scholar internship assessment tool that is developed to ensure a consistent approach to the evaluation of scholars in a particular program. The tool should reflect the specific responsibilities of the scholar during the internship. The grantee and worksite

supervisor are encouraged to work together as they see fit to develop the assessment tool. Supervisors at the internship site will complete the assessment detailing the scholar's strengths and areas for improvement that must be addressed and provide the results of the assessment to the grantee. The grantee should ensure that (i) scholars are provided with a copy of the assessment and all relevant rubrics prior to beginning their internship, (ii) supervisors have sufficient technical support to accurately complete the assessment, and (iii) scholars receive a copy of the results of the assessment within 90 days of the end of their internship.

(e) Describe how scholars will be evaluated throughout the entire program to ensure that they are proficient in meeting the needs and demands of today's consumers and employers, including the steps that will be taken to provide assistance to a scholar who is not meeting academic standards or who is performing poorly in a practicum or internship setting.

(f) Describe how the program will be evaluated. Such a description must include:

(1) How the program will determine its effect over a period of time on filling vacancies in the State VR agency

with qualified rehabilitation professionals capable of providing quality services to consumers;

(2) How input from State VR agencies and community-based rehabilitation service providers will be included in the evaluation;

(3) How feedback from consumers of VR services and employers (including the assessments described in paragraph (d)(3)) will be included in the evaluation;

(4) How data from other sources, such as those from the Department on the State VR program, will be included in the evaluation; and

(5) How the data and results from the evaluation will be used to make necessary adjustments and improvements to the program.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the Federal Register. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that would maximize net benefits (including potential economic, environmental,

public health and safety, and other advantages;
distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the

Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Rehabilitation Long-Term Training program have been well established over the years through the successful completion of similar projects. This proposed priority would promote rehabilitation programs that will better prepare scholars to assist individuals with disabilities achieve employment in today's challenging economy.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to

foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 7, 2014

Michael K. Yudin,
Acting Assistant Secretary
for Special Education and
Rehabilitative Services.

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